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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/593,192	09/18/2006	Min Seok Yoon	12109.0089USWO	7441
23552	7590	07/21/2008	EXAMINER	
MERCHANT & GOULD PC			ANDERSON, AMBER R	
P.O. BOX 2903			ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/593,192	Applicant(s) YOON, MIN SEOK	
	Examiner AMBER R. ANDERSON	Art Unit 3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 September 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9/18/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is in response to Application filed on June 5, 2007 in which claims 1-10 are presented for examination.

Status of Claims

Claims 1-10 are pending of which Claim 1 is in independent form.

Drawings

1. Figures **11-14** should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g).
2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: **530b** and **510c**. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the

examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Okahashi (JP 09-157906).

Regarding Claim 1, Okahashi discloses a body member (1) made of a flexible fabric material for being worn on the feet (Para. [0012]); and an inner pad member (4B) coupled to an inside of the body member (Para. [0014]) for accommodation to an area where a heel is located when the heel protector is worn (Drawing 1), wherein both distal ends of longitudinal direction of the inner pad member are coupled to the body member, and two areas of the inner pad member accommodated to both lateral sections of the heel are coupled to the body member (Drawing 2 where only the perimeter is attached and is understood that 4B of Drawing 1 would be attached the same way), such that the inner pad member can relatively slide in relation to the body member when the heel protector is worn (Drawing 2 where excess material shown would allow for the materials

to slide across one another and that 4B of Drawing 1 would be made in the same manner).

Regarding Claim 2, Okahashi discloses the body member (1) has a cylindrically bent shape (Drawing 1).

Regarding Claim 3, Okahashi discloses the inner pad member (4B) has a substantially oblong shape (Drawing 1), and each of the two areas coupled to the body member is a portion of a lateral distal end of the inner pad member (Drawing 2 where only the perimeter is attached and is understood that 4B of Drawing 1 would be attached the same way).

Regarding Claim 5, Okahashi discloses the body member (1) being provided with an elastic band at at least one of upper and lower distal ends (Drawing 1, where 1 is formed like an ordinary sock showing an elastic cuff).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Okahashi (JP 09-157906) in view of Sogawa (JP 09-310201).

Okahashi discloses the invention substantially as claimed above. However Okahashi does not disclose the inner pad member being cut in the shape of a “V” at both longitudinal central portions of edges. Sogawa teaches a heel insert, or “inner pad” (14), used for the same function as the Okahashi garment, with “V” shaped cuts (15) on both longitudinal central portion edges (Drawing 4A) to prevent excess bulk when attaching the side edges in a heel shape.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have replaced the insert of Okahashi (4B) with another well known insert, such as the one taught by Sogawa (14), as a simple substitution of one known element for another to yield the predictable result of protecting a wearers heel from injury.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Note the materials used and construction of the low friction sock in Bernhardt (USPN 6,108,820). Note the insert attached at one distal end to the inside of a sock in Abel (USPN 3,269,038). Note the use of an elastic fabric worn on the foot inside a sock in Hlavac (USPN 6,886,276).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to AMBER R. ANDERSON whose telephone number is (571) 270-5281. The examiner can normally be reached on Mon-Thur, 8am - 6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Welch can be reached on (571) 272-4996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/AMBER R ANDERSON/
Examiner, Art Unit 3765

July 17, 2008

/Alissa L. Hoey/
Primary Examiner, Art Unit 3765